



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)	
)	
Amerimart Development Company, Inc.,)	
Qual-Econ Lease Co., Inc.,)	
MJG Enterprises Inc., and)	
Clear Alternative of Western NY, Inc.)	
(d.b.a. G & G Petroleum))	Docket No. RCRA-02-2012-7501
)	
Respondents)	

**ORDER GRANTING MOTION FOR EXTENSION OF TIME
FOR COMPLAINANT TO FILE ADDITIONAL DISPOSITIVE MOTIONS**

On October 24, 2013, the undersigned issued a Prehearing Order establishing deadlines for a number of prehearing procedures, including the filing of prehearing exchanges of information and dispositive motions pertaining to liability. By an order dated December 3, 2013, the filing deadlines for the parties' prehearing exchanges of information were extended by thirty days. Complainant was to file its Initial Prehearing Exchange no later than January 6, 2014, and Respondents were to file their Prehearing Exchanges no later than January 27, 2014. The deadline for filing dispositive motions was March 12, 2014.

Complainant filed its Initial Prehearing Exchange on January 3, 2014, and Respondent Amerimart Development Company, Inc. ("Amerimart"), filed its Prehearing Exchange on January 21, 2014. To date, Respondents Qual-Econ Lease Co., Inc. ("Qual-Econ"), MJG Enterprises Inc. ("MJG"), and Clear Alternative of Western NY, Inc. (d/b/a G & G Petroleum) ("Clear Alternative") have not submitted Prehearing Exchanges or filed motions requesting an extension of the filing deadline. On February 4, 2014, the undersigned issued an Order to Show Cause directing Qual-Econ, MJG, and Clear Alternative to show good cause no later than February 14, 2014, as to why they failed to file timely prehearing exchanges and why a default order should not be entered against them. Respondents Qual-Econ, MJG, and Clear Alternative have not responded to the Order to Show Cause or otherwise contacted this Tribunal.

On February 26, 2014, Complainant filed a Motion for Default Judgement on Liability against Qual-Econ, MJG, and Clear Alternative, in tandem with a Motion for Extension of Time ("Motion") to file additional dispositive motions. In the Motion, Complainant requests that the deadline for filing dispositive motions be extended by thirty days because Complainant intends to prepare and file a motion requesting assessment of a penalty against Qual-Econ, MJG, and Clear Alternative, but only if the pending Motion for Default Judgement on Liability is granted.

Mot. 1–2. Complainant argues that a penalty motion will take time due to “the complexities of the case . . . and the need to prepare declarations to accompany the motion.” Mot. 2. Complainant also states it is “working simultaneously to enter into a settlement and/or file an accelerated motion for liability against the other Respondent, Amerimart Development Company, Inc.” Mot. 2. Complainant avers that it has consulted with Amerimart’s counsel, and Amerimart does not oppose the Motion. Mot. 2.

The Consolidated Rules of Practice governing this proceeding allow the presiding officer to “grant an extension of time for filing any document: upon timely motion . . . for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative.” 40 C.F.R. § 22.7(b). Complainant has shown good cause to extend the deadline for filing dispositive motions, though not by the thirty days requested. The essential justification for the extension is that Complainant intends to perform actions that may aid the efficient resolution of this matter, but are contingent upon the outcome of the pending Motion for Default Judgement on Liability. Because those actions would consume significant time and resources, it would be inefficient for Complainant to initiate those actions before the pending Motion for Default Judgement on Liability is resolved. Therefore, to the extent the Motion requests that the current deadline for filing dispositive motions be extended, it is **GRANTED**.

The deadline for filing dispositive motions, currently scheduled as March 12, 2013, is hereby **STAYED**. A new deadline for filing dispositive motions will be established in conjunction with a ruling on Complainant’s Motion for Default Judgment on Liability.

SO ORDERED.

Christine D. Coughlin
Administrative Law Judge

Dated: February 28, 2014
Washington, D.C.